

**UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF GEORGIA
BRUNSWICK DIVISION**

STATE OF KANSAS, *et al.*

Plaintiffs,

v.

UNITED STATES DEPARTMENT OF
LABOR, *et al.*,

Defendants.

Civil Action No. 2:24-cv-76-LGW-BWC

**JOINT MOTION TO VACATE HEARING AND SET PRELIMINARY INJUNCTION
BRIEFING SCHEDULE**

The parties jointly move to vacate the hearing currently scheduled for June 20, 2024, and to enter the parties' proposed briefing schedule for Plaintiffs' pending preliminary injunction motion. Good cause supports this motion, as follows:

1. This matter was filed on June 10, 2024. ECF No. 1. On June 13, 2024, Plaintiffs moved for a preliminary injunction/stay/temporary restraining order (herein Plaintiffs' Motion). ECF No. 19. In support of Plaintiffs' Motion, Plaintiffs submitted a 30-page brief, as well as 13 declarations totaling 63 pages.

2. The Court set a hearing for June 20, 2024. June 14, 2024 Minute Order.

3. Plaintiffs challenge aspects of the final rule, Improving Protections for Workers in Temporary Agricultural Employment in the United States, 89 Fed. Reg. 33,898 (Apr. 29, 2024) ("Final Rule"). Specifically, Plaintiffs challenge the Final Rule's revisions to regulations appearing at 29 CFR § 501.4(a) and 20 CFR § 655.135(h). The Final Rule has a June 28, 2024 effective date.

4. The Final Rule, however, states that the challenged provisions found at 20 C.F.R. § 655.135(h) will not apply to clearance orders and associated H-2A applications before August 29, 2024. See Final Rule, 89 Fed. Reg. at 33,904. Earlier today, the U.S. Department of Labor ("DOL") posted on its public website a notice stating that "to better align the implementation of the [Final]

Rule's revisions to 29 CFR 501.4(a) with parallel revisions in 20 CFR 655.135(h)," the Final Rule's revisions to 29 C.F.R. § 501.4(a) will not be enforced until August 29, 2024. Wage and Hour Division, *Final Rule, Improving Protections for Workers in Temporary Agricultural Employment in the United States*, <https://www.dol.gov/agencies/whd/agriculture/h2a/final-rule>. Specifically, DOL explained that "through August 28, 2024, it will continue to enforce the requirements of 29 CFR 501.4(a) in effect as of June 27, 2024" and that it "will begin to enforce the requirements of 29 CFR 501.4(a) as revised by the [Final Rule] only with respect to conduct or actions occurring on or after August 29, 2024." *Id.*

5. As a result of the DOL notice described in ¶ 4, Plaintiffs agree that an immediate hearing on Plaintiffs' Motion is not necessary. Accordingly, the parties agree that the June 20, 2024 hearing should be vacated and respectfully submit that the Court should consider Plaintiffs' Motion after briefing according to the schedule and page limits proposed by the parties, as follows:

Defendants' opposition to due July 8, 2024
Plaintiffs' preliminary injunction motion, maximum of 45 pages (inclusive of tables)

Plaintiffs' reply in support of due July 22, 2024
Plaintiffs' preliminary injunction motion, maximum of 30 pages (inclusive of tables)

The parties further respectfully request that the Court schedule a hearing on Plaintiffs' preliminary injunction motion at the Court's convenience. The parties are available for a hearing during the weeks of July 22 and 29, 2024. However, the Plaintiffs prefer the hearing take place between July 23-25.

6. A proposed order accompanies this motion.

DATE: June 17, 2024

Respectfully submitted,

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